

ASSEMBLY BILL

No. 2301

**Introduced by Committee on Judiciary (Jones (Chair), Evans,
Laird, Levine, Lieber, and Montanez)**

February 22, 2006

An act to add Section 6033 to the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, as introduced, Committee on Judiciary. State Bar: legal services to the poor.

Existing law, the State Bar Act, provides for the licensing and regulation of attorneys by the State Bar of California. Existing law authorizes the State Bar to collect annual membership fees and specified voluntary fees and donations.

This bill would also authorize the State Bar to collect voluntary financial support for nonprofit organizations providing free legal services to persons of limited means.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) There is an increasingly dire need for legal services for
- 4 poor Californians. Due to insufficient funding, existing programs
- 5 providing free services in civil matters to indigent and
- 6 disadvantaged persons, especially underserved groups such as

1 elderly, disabled, children, and non-English-speaking persons, do
2 not adequately meet the needs of these persons.

3 (b) Legal services programs encourage peaceful dispute
4 resolution, efficiently serve millions of poor clients, and promote
5 an ordered society and the peaceful resolution of disputes.

6 (c) Approximately 80 percent of the legal needs of poor
7 Californians are not being met. Despite the establishment of the
8 state's Equal Access Fund, and impressive gains in efficiency
9 and fundraising by legal aid programs, the current "justice gap"
10 in California is estimated to be at least three hundred and fifty
11 million dollars (\$350,000,000), in large part because of federal
12 funding cuts and escalating poverty rates, particularly among
13 children.

14 (d) California's poverty rate is higher than the national
15 average, and the gap between rich and poor has only worsened in
16 recent years, putting a greater strain on legal services
17 organizations. Although legal services eligibility limits are strict,
18 more than half of all people who meet the standards and seek
19 assistance regarding problems for which legal services office
20 provide service are currently being turned away simply for lack
21 of resources.

22 (e) Respect for the law depends upon public confidence in the
23 accessibility of the justice system. Whether disputes are brought
24 to the legal system for resolution or decided in less desirable
25 ways depends in part on whether the courts are available to all
26 who face legal problems. Moreover, the fair resolution of
27 conflicts through the legal system offers financial and economic
28 benefits by reducing the need for many state services and
29 allowing people to help themselves.

30 (f) Opinion surveys show, disturbingly, that more than
31 two-thirds of Californians believe low-income people usually
32 receive worse outcomes in court than others. Respect for a
33 system of laws is not encouraged if most people perceive, rightly
34 or wrongly, that justice is only for the wealthy.

35 (g) A lack of representation not only disadvantages people
36 with legal problems, it also burdens the justice system itself and
37 impairs the administration of justice. California courts are facing
38 an ever increasing number of parties who go to court without
39 legal counsel, largely because they cannot afford representation.
40 Unrepresented litigants typically are unfamiliar with court

1 procedures and forms, as well as with their rights and
2 obligations, which leaves them disadvantaged in court and
3 consumes significant court resources.

4 (h) California continues to lag far behind other industrial states
5 in total funding of legal services for the poor. Our record is also
6 dismal in comparison to other countries whose economies are
7 similar in size or even smaller than California's economy.

8 (i) Every lawyer has a professional responsibility to provide
9 legal services to those unable to pay. Many lawyers perform
10 substantial pro bono services or make financial contributions in
11 lieu of performing pro bono services. However, many lawyers,
12 particularly solo practitioners, small firms, and lawyers in the
13 public sector, face special challenges in providing pro bono legal
14 services. The private bar, acting on its own, cannot and should
15 not be called upon to provide full civil representation for
16 California's poor. Nonetheless, the legal profession should play a
17 lead role in the effort to improve the justice system, and each
18 lawyer has a personal obligation as a member of the profession to
19 ensure that all persons have equal access to the courts for redress
20 of grievances and access to lawyers when legal services are
21 necessary, including through the provision of pro bono services
22 and through financial support to nonprofit organizations that
23 provide free legal services to the poor.

24 (j) Facilitating the collection of voluntary financial
25 contributions by lawyers to legal services organizations is
26 consistent with the mission of the State Bar of California to aid in
27 matters pertaining to the improvement of the administration of
28 justice, including matters that may advance the professional
29 interests of the members of the State Bar and matters concerning
30 the relations of the State Bar with the public.

31 SEC. 2. Section 6033 is added to the Business and
32 Professions Code, to read:

33 6033. Notwithstanding any other provision of law, the State
34 Bar is expressly authorized to facilitate the professional
35 responsibilities of members by collecting, in conjunction with the
36 State Bar's collection of its annual membership dues or
37 otherwise, voluntary financial support for nonprofit organizations
38 that provide free legal services to persons of limited means.

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